

IV. REMARKS

Claims 1, 4, 21-22, 34-36 and 43-45 are pending in this application. By this Amendment, the specification and claims 1, 4, 21 and 34 have been amended; and claims 44 and 45 have been added. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the objections and rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the above amendments and following remarks is respectfully requested.

In the Office Action, claims 4 and 21 were objected to because of informalities. By this amendment, claims 4 and 21 have been revised to incorporate the Office's suggestion. Accordingly, withdrawal of the rejection is respectfully requested.

In the Office Action, claims 34-36 and 43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. By this amendment, the specification has been revised to include the claim 34 recitation. The specification has also been revised to provide support for new claims 44 and 45. Applicants submit that the original disclosure including, in particular, the drawings (Fig. 19) provide antecedent for these revisions, and no new matter has been added.

In the Office Action, claims 1, 4, 21, 22, and 34-36 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wei (PN 5,369,303). Applicants submit that the pending claims are not anticipated by the above patent and thus respectfully request withdrawal of the rejection.


With regard to claim 1, Wei (Fig. 9) discloses an insulation between contact 48 and a second gate electrode including layer 32 and spacer 40. Contact 48, however, overlaps and contacts the spacer 40 of the second gate electrode. In contrast, the invention claims, *inter alia*, an insulation layer that horizontally insulates the contact from an adjacent second gate electrode and at least one spacer adjacent the second gate electrode, as shown in Fig. 19 of the present invention. Accordingly, Wei fails to disclose each and every claimed element.

With regard to claim 34, Wei (Fig. 9) discloses an insulating layer 44 that contacts two opposing vertical sides of a spacer 40. Insulating layer 44, however, does not contact gate electrode 16. In Wei, a second insulating layer 32 is positioned between the first insulating layer 44 and the gate electrode 16. In contrast, the claimed invention comprises, *inter alia*, an insulating layer that contacts the gate electrode and a masking layer contacting the gate electrode for insulating the gate electrode from the contact. In view of the foregoing, Applicants request withdrawal of the rejection of claims 1, 4, 21-22, and 34-36 over Wei.

Claims 4 and 21 are dependent upon claim 1, claim 22 is dependent upon claim 21, and claims 35 and 36 are dependent upon claim 34. The dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, he is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,


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